

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TINA LOUISE HEATH,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:17-cv-32

HON. JANET T. NEFF

_____/

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court affirm the Commissioner's decision to deny Plaintiff's claim for Disability Insurance Benefits (DIB) and Supplemental Security Income (SSI) under Titles II and XVI of the Social Security Act. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (ECF No. 15). Defendant filed a response to the objections (ECF No. 16). In accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(3), the Court has performed de novo consideration of those portions of the R & R to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff argues that the Report and Recommendation should not be adopted because the ALJ's residual functional capacity (RFC) findings are not supported by the record. First, the ALJ failed to give proper weight to the opinion of treating physician, Dr. Luis Vega. Second, the ALJ gave more weight to the opinion of a consulting physician who did not review the entire record,

and the ALJ impermissibly made his own medical conclusions. Finally, the ALJ did not properly assess Plaintiff's credibility.

In response, Defendant argues that Plaintiff's objections should be rejected because the Report and Recommendation properly found that the Commissioner's decision is supported by substantial evidence. Moreover, Plaintiff merely rehashes her previous arguments.

As a threshold matter, to the extent Plaintiff's objections merely reiterate arguments made before the Magistrate Judge, they are not proper objections and will not be considered by this Court. Rehashing the same arguments made previously defeats the purpose and efficiency of the Federal Magistrate's Act, 28 U.S.C. § 636. *See Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991); *Owens v. Comm'r of Soc. Sec.*, No. 1:12-CV-47, 2013 WL 1304470, at *3 (W.D. Mich. Mar. 28, 2013). Such duplication defeats the purpose of the Federal Magistrates Act, which is to "relieve courts of unnecessary work." *See Howard*, 932 F.2d at 509 (citation omitted). A party filing objections to a report and recommendation is required to "specifically identify the portions of the proposed findings, recommendations or report to which objections are made and the basis for such objections." W.D. Mich. LCivR 72.3(b); *see also Freeman v. Sec'y of Health & Human Servs.*, 972 F.2d 347, 1992 WL 197286, at *2 (6th Cir. 1992) (unpublished table decision).

Plaintiff's arguments otherwise demonstrate no factual or legal error by the Magistrate Judge in his review of the ALJ's decision.

1.

Plaintiff contends that the Report and Recommendation should not be adopted because the opinions of treating physician Luis Vega, M.D., were entitled to substantial if not controlling

weight. As Defendant points out, Plaintiff's arguments in this regard merely rehash the arguments made to the Magistrate Judge (*see* ECF No. 11 at PageID.528-532).

The Magistrate Judge considered the record and Plaintiff's arguments of error with respect to Dr. Vega's opinion and properly found no violation of any aspect of the treating physician rule. The Magistrate Judge's reasoning soundly supports his conclusions that (1) Dr. Vega's opinion regarding Plaintiff's RFC was not entitled to controlling weight, and (2) substantial evidence supported the ALJ's finding that the level of restriction suggested by Dr. Vega is not supported by his own treatment notes and other evidence of record. (ECF No. 14 at PageID.573-574). This objection is without merit.

2.

Plaintiff argues that the ALJ's RFC finding is not otherwise supported by substantial evidence, *as set forth in Plaintiff's Initial Brief* (ECF No. 15 at PageID.585). She contends the ALJ made other errors in determining Plaintiff's RFC. That is, the ALJ did not follow applicable law when he assessed Plaintiff's functional capacity or the opinion of R. Scott Lazzara, M.D., and he improperly interpreted raw medical data in reaching his RFC findings, and he did not properly address Plaintiff's credibility.

Plaintiff's arguments fail to adhere to the standards for objections to a Report and Recommendation, as noted above. Instead, Plaintiff merely reiterates arguments *made to* the Magistrate Judge. Plaintiff's arguments are properly rejected on this basis alone.

For instance, Plaintiff argues that *the ALJ* failed to give proper weight to the opinion of occupational therapist Amy Vincent, MS, OTR/L. The Magistrate Judge considered and rejected Plaintiff's argument (ECF No. 14 at PageID.572-573). Plaintiff identifies no specific portions of the Magistrate Judge's analysis to which she objects.

In any event, Plaintiff fails to point to any error in the Magistrate Judge's analysis or conclusions regarding the RFC issue raised. The Magistrate Judge addressed Plaintiff's contention that because no medical opinion supports the RFC, the ALJ's RFC finding is not supported by substantial evidence (ECF No. 14 at 574-575). The Magistrate Judge applied the proper legal standards and concluded that the ALJ gave an adequate explanation and his findings regarding Plaintiff's RFC are supported by substantial evidence (*id.* at PageID. 575).

3.

Plaintiff's final argument is that the ALJ failed to properly assess Plaintiff's credibility. The Magistrate Judge extensively addressed the credibility issues in the Report and Recommendation (ECF No. 14 at PageID.575-578). Plaintiff's arguments are merely repetitive of her previous arguments. The Magistrate Judge properly concluded that "[t]he ALJ gave a lengthy and detailed explanation of his factual findings regarding plaintiff's credibility and his findings are supported by more than substantial evidence (*id.* at PageID.577).

In short, Plaintiff demonstrates no factual or legal error by the Magistrate Judge in his review of the ALJ's decision. Plaintiff's objections are denied.

Accordingly:

IT IS HEREBY ORDERED that the Objections (ECF No. 15) are DENIED, the Report and Recommendation of the Magistrate Judge (ECF No. 14) is APPROVED and ADOPTED as the Opinion of the Court, and the decision of the Commissioner of Social Security is AFFIRMED.

A Judgment will be entered consistent with this Opinion and Order.

Dated: March 31, 2018

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge